

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-37-C - ORDER NO. 2005-141  
MARCH 28, 2005

IN RE: Application of Hargray Telephone Company, )  
Inc. and Bluffton Telephone Company, Inc. ) ORDER APPROVING  
for Approval for Alternative Regulation Plan ) ALTERNATIVE  
Pursuant to S.C. Code § 58-9-576. ) REGULATION PLAN

This matter comes before the Public Service Commission of South Carolina (“Commission”) upon the request of Hargray Telephone Company, Inc. (“Hargray”) and Bluffton Telephone Company, Inc. (“Bluffton”) for approval of an Alternative Regulation Plan (the “Plan”), pursuant to S.C. Code Ann. § 58-9-576.

S.C. Code Ann. § 58-9-576(A) provides in part:

Any LEC may elect to have rates, terms, and conditions determined pursuant to the plan described in subsection (B), if the commission: (1) has approved a local interconnection agreement in which the LEC is a participant with an entity determined by the commission not to be affiliated with the LEC, (2) determines that another provider’s service competes with the LEC’s basic local exchange telephone service, or (3) determines that at least two wireless providers have coverage generally available in the LEC’s service area and that the providers are not affiliates of the LEC.

On February 2, 2005, Bluffton and Hargray filed an Alternative Regulation Plan. Accompanying the Plan was the Affidavit of Cedric DeBardelaben, with attachments as described below.

The Plan was filed pursuant to S.C. Code Ann. § 58-9-576. Hargray and Bluffton are under common ownership and management and, therefore, jointly submitted the Plan. According to the Plan, there are at least two wireless providers with coverage generally available in the service areas of Hargray and Bluffton that are not affiliated with either company, and Bluffton and Hargray therefore elect to have the rates, terms, and conditions of their services determined pursuant to the Plan, which they contend conforms with the plan described in S.C. Code Ann. § 58-9-576(B). Specifically, Bluffton and Hargray state that each of the following wireless carriers, none of which is affiliated with either Bluffton or Hargray, has wireless coverage generally available in Bluffton's and Hargray's service areas: ALLTEL Communications, Inc. ("ALLTEL"), Cingular Wireless II LLC ("Cingular"), Nextel South Corp. ("Nextel"), Sprint Spectrum, LP, d/b/a Sprint PCS ("Sprint PCS"), Triton PCS Operating Co., LLC, d/b/a SunCom ("SunCom"), T-Mobile USA, Inc. ("T-Mobile"), and Cellco Partnership, d/b/a Verizon Wireless ("Verizon"). In addition, according to Bluffton and Hargray, there are numerous carriers that have been certificated to provide local exchange services throughout the State of South Carolina, including Bluffton's and Hargray's service areas.

Along with the proposed Plan, Bluffton and Hargray filed the Affidavit of Cedric DeBardelaben, Property & Construction/RF Manager for Hargray Communications Group, the parent company of Hargray Wireless, Hargray Telephone Company, and Bluffton Telephone Company. Mr. DeBardelaben stated under oath that there are a number of wireless providers that have coverage generally available in the incumbent local service areas served by Bluffton and Hargray, including ALLTEL, Cingular,

Nextel, Sprint PCS, SunCom, T-Mobile, and Verizon, and that none of these wireless service providers is affiliated with Hargray or Bluffton. Attached to Mr. DeBardelaben's Affidavit were wireless coverage maps obtained from each of these wireless service providers demonstrating general coverage throughout Bluffton's and Hargray's service areas. Mr. DeBardelaben also presented and explained the methodology and results of drive tests he personally conducted for three of the wireless service providers – Sprint PCS, ALLTEL, and Verizon. According to Mr. DeBardelaben's sworn statement, and as shown on the maps attached to the Affidavit, the results of the drive tests also demonstrate that ALLTEL, Sprint PCS, and Verizon have generally available coverage and a good quality of service throughout Bluffton's and Hargray's service areas.

Notice of the filing of the Plan was published in a newspaper of general circulation in the affected area. No interventions or comments were submitted in response to the notice. The Office of Regulatory Staff ("ORS") is a party to this matter pursuant to S.C. Code Ann. § 58-4-10(B). On March 17, 2005, ORS filed a letter with the Commission stating that ORS had reviewed the documentation provided by Bluffton and Hargray and, in addition, had independently reviewed information which confirms the general availability of non-affiliated cellular services in Bluffton's and Hargray's service areas. The letter concluded by stating that ORS had no objections to the notification by Bluffton and Hargray of their plans to enter the alternative regulation plan set out in S.C. Code Ann. § 58-9-576.

### **FINDINGS AND CONCLUSIONS**

1. This Commission has the authority and the obligation, pursuant to S.C. Code Ann. § 58-9-576(A), in the absence of an approved local interconnection agreement, to make a determination as to whether Bluffton and Hargray meet the requirements of either S.C. Code Ann. § 58-9-576(A)(2) or (A)(3) so as to entitle Bluffton and Hargray to elect alternative regulation under S.C. Code Ann. § 58-9-576.

2. This Commission also has the authority and obligation to review the Plan submitted by Bluffton and Hargray to ensure that it conforms to the requirements of the alternative regulation plan described in S.C. Code Ann. § 58-9-576(B).

3. Bluffton and Hargray have furnished the necessary information for the Commission to make a determination regarding whether Bluffton and Hargray meet the requirements of either S.C. Code Ann. § 58-9-576(A)(2) or (A)(3) so as to entitle Bluffton and Hargray to elect alternative regulation under S.C. Code Ann. § 58-9-576.

4. We find, based on the evidence submitted by Bluffton and Hargray in the form of the sworn Affidavit of Cedric DeBardelaben and accompanying exhibits, that at least two wireless providers have coverage generally available in Bluffton's and Hargray's service areas and that the providers are not affiliates of either LEC. Thus, we find that both Bluffton and Hargray have met the requirements of S.C. Code Ann. § 58-9-576(A)(3).

5. In addition, we note that there are a number of competitive carriers holding statewide certificates to provide local exchange service. Because this Commission has previously terminated Bluffton's and Hargray's automatic rural

exemption under Section 251(f)(1) of the Federal Telecommunications Act of 1996, each of the carriers holding a statewide certificate has the authority to provide service in Bluffton's and Hargray's service areas. See Commission Order No. 2000-021 (terminating Bluffton's and Hargray's rural exemptions). We, therefore, find that the requirements of S.C. Code Ann. § 58-9-576(A)(2) have been met for the purposes of this filing. Each such filing must be considered individually and on the particular facts of that case. We may make a different determination if presented with other facts and circumstances.

6. Bluffton and Hargray have met the requirements of S.C. Code Ann. § 58-9-576(A) and, therefore, may elect to have rates, terms, and conditions determined pursuant to an alternative regulation plan as described in S.C. Code Ann. § 58-9-576(B).

7. We have reviewed the Plan jointly proposed by Bluffton and Hargray, and find that it conforms to the provisions of S.C. Code Ann. § 58-9-576(B).

8. Pursuant to S.C. Code Ann. § 58-9-576(B)(1), the Plan "becomes effective on the date specified by the electing LEC, but in no event sooner than thirty days after the notice is filed with the commission." Bluffton and Hargray specified that the effective date of the Plan is March 4, 2005.

9. A copy of the Plan is attached hereto and incorporated by reference herein.

**IT IS THEREFORE ORDERED THAT:**

1. The Alternative Regulation Plan filed by Bluffton and Hargray, and attached hereto, is effective as of March 4, 2005.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice Chairman

(SEAL)



Hargray and Bluffton  
Alternative Regulation